

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653 (KRH)
.
.
.
CIRCUIT CITY STORES, . Chapter 11
INC., et al., . Jointly Administered
.
701 East Broad Street
Richmond, VA 23219
.
Debtors. .
.
October 24, 2013
2:04 p.m.
.

TRANSCRIPT OF HEARING
BEFORE HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Tavenner & Beran, PLC
By: LYNN L. TAVENNER, ESQ.
PAULA S. BERAN, ESQ.
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Proceedings recorded by electronic sound recording, transcript
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1 COURTROOM DEPUTY: All rise. The United States
2 Bankruptcy Court for the Eastern District of Virginia is now in
3 session, the Honorable Kevin R. Huennekens presiding.

4 Please be seated and come to order.

5 COURT CLERK: Circuit City Stores, Incorporated, Item
6 1 through 55 on proposed agenda.

7 MS. BERAN: Good afternoon, Your Honor.

8 THE COURT: Good afternoon, Ms. Beran.

9 MS. BERAN: For the record, Paula Beran of the law
10 firm of Tavenner & Beran. With me at counsel's table is Ms.
11 Katie Bradshaw who Your Honor has met many times before, senior
12 trust manager with the trust, as well as then my law partner,
13 Ms. Lynn Tavenner.

14 Although, Your Honor, there's a lot of items on
15 today's agenda and it's becoming a rather large agenda, in
16 connection with the items, Your Honor, they all are the
17 outstanding claim objections and, if Your Honor is so inclined,
18 I would respectfully submit that I address them as I have in
19 the past, where I try to lump similarly situated ones together
20 so that we can skip through various pages.

21 THE COURT: I think that that's a wonderful
22 suggestion. As a matter of fact, in anticipation of that, my
23 clerk has prepared a summary of what you're about to say which
24 I assume is going to coincide exactly and I've got your
25 exhibits loaded on the computer because I didn't feel like

1 cutting any trees down in order to have to print those out.

2 (Laughter)

3 MS. BERAN: Great, Your Honor. And since you have
4 the summary, next time I will not bring Ms. Tavenner because
5 she is here to catch anything I missed and if Your Honor has a
6 summary, she is unnecessary.

7 THE COURT: Oh, you know what? I don't think that
8 Ms. Tavenner will ever be unnecessary.

9 MS. BERAN: Thank you, Your Honor.

10 THE COURT: You just wanted me to put that on the
11 record, didn't you?

12 (Laughter)

13 MS. BERAN: Your Honor, starting with Items 1 through
14 6, these deal with the outstanding claim objections from the
15 debtor's perspective. We'd respectfully request that they all
16 be continued until 12/17 at two o'clock.

17 THE COURT: It will be continued.

18 MS. BERAN: Thank you, Your Honor. That then allows
19 us to flip to Page 27.

20 THE COURT: That would be Number 3 on my summary.

21 MS. BERAN: Your Honor, in connection with Items
22 Number 7 through 11, these all deal with what we refer to as
23 the stand-alone tax claim objections. For Items 7 through 11,
24 we'd respectfully request that they be continued until 12/17 at
25 two.

1 THE COURT: They'll be continued, as well.

2 MS. BERAN: Thank you, Your Honor. From an agenda
3 perspective, that allows us to flip to Page 45, Item Number 12.
4 We'd respectfully request that the items as listed on Exhibit B
5 be continued until the 12/17 hearing.

6 THE COURT: Okay. The items on Exhibit B will be
7 continued to 12/17.

8 MS. BERAN: Thank you, Your Honor. That allows
9 anybody following along on the agenda to flip to Page 58, Item
10 Number 13. As indicated on Exhibit B, Your Honor, certain of
11 those claims have been resolved. We'd respectfully request
12 that the remaining ones, as identified on Exhibit B, be
13 continued until the 12/17th omni.

14 THE COURT: The remaining claims identified on
15 Exhibit B will be continued.

16 MS. BERAN: Thank you, Your Honor. That allows us to
17 skip to Page 71. In connection with that, Your Honor, Item
18 Numbers 14, 15, 16, 17, 18, we'd respectfully request the
19 claims as identified on Exhibit B be continued until 12/17.

20 THE COURT: All right. Those matters will all be
21 continued.

22 MS. BERAN: Thank you, Your Honor. Turning then to
23 Page 130 on the agenda, as indicated -- Item Number 19, as
24 indicated on Exhibit B, certain of those claims have been
25 resolved. We'd respectfully request that the remaining be

1 continued until the 12/17 omni.

2 THE COURT: Those will be continued.

3 MS. BERAN: Thank you, Your Honor. Flipping now to
4 Page 143, Items Number 20 and 21, we'd respectfully request
5 that the claims identified on Exhibit B be continued until the
6 12/17 omni.

7 THE COURT: Those matters will be continued.

8 MS. BERAN: Thank you, Your Honor. Flipping then to
9 Page 166, for Items 22, 23, 24 and 25, as indicated on Exhibit
10 B, several of those claims have been resolved. We'd
11 respectfully request that the remaining items, as identified on
12 Exhibit B, be continued until 12/17.

13 THE COURT: Okay, and that was through matter Number
14 25, correct?

15 MS. BERAN: Yes, Your Honor.

16 THE COURT: Those will be continued.

17 MS. BERAN: Thank you, Your Honor. That allows us to
18 then flip forward to Page 213, Item Number 26. We'd
19 respectfully request that the claims as identified on Exhibit B
20 be continued until 12/17 omni.

21 THE COURT: Those will be continued.

22 MS. BERAN: Thank you, Your Honor. Turning then to
23 Page 226, Item Number 27. As indicated on Exhibit B, certain
24 of those claims have been resolved. We'd respectfully request
25 that the remaining items, as identified on Exhibit B, be

1 continued until the 12/17 omni.

2 THE COURT: It'll be continued.

3 MS. BERAN: Thank you, Your Honor.

4 Your Honor, I apologize. I would like to mess myself
5 up by just noting something I indicated that I would note on
6 the record.

7 Your Honor, just flipping back very quickly and I
8 just state this for the record. On Item Number 25, the
9 liquidating trust's eighteenth omnibus objection, this is one
10 of our omni tax claim objections. As indicated on Exhibit B,
11 one of those claims has been resolved. Unlike what we've done
12 in previous instances where that resolution has been done
13 pursuant to settlement agreement, in this instance, given I
14 think some nuances associated with authority to sign the
15 settlement agreement, the terms of that agreement are going to
16 be articulated in the order that we will be tendering.

17 THE COURT: All right, very good.

18 MS. BERAN: Thank you, Your Honor. I apologize.
19 That then allows me to turn back to Item 27 on Page 226.

20 THE COURT: Which -- before we leave that, just so I
21 can make a note of this. What tax claim is that, what taxing
22 authority?

23 MS. BERAN: One moment, Your Honor. I'm turning to
24 B, it's -- item -- on Exhibit B, Broward County Record Taxes.
25 It is Claim Number 15024 --

1 THE COURT: Got it.

2 MS. BERAN: -- as well as 15025. And we indicated
3 this matter has been resolved and may be removed from the
4 Court's docket --

5 THE COURT: I see that.

6 MS. BERAN: -- but just indicating that we're going
7 to put the terms of that into the actual order.

8 THE COURT: Very good.

9 MS. BERAN: Thank you, Your Honor. Your Honor, then
10 turning again back to Page 226, Item Number 27, I believe I
11 already covered it, but I'm not positive. As indicated on
12 Exhibit B on Items Number 27, certain of those have been
13 resolved. For the remaining ones on Exhibit B, we respectfully
14 request that they be continued until the 12/17 omni.

15 THE COURT: Those will be continued.

16 MS. BERAN: Thank you. That allows us to turn to
17 Page 238. Your Honor, starting at Item Number 28 on Page 238,
18 Items Number 28, 29, 30, 31 and 32, we'd respectfully request
19 the claims identified on Exhibit B be continued until the
20 12/17th omni.

21 THE COURT: They'll be continued.

22 MS. BERAN: Thank you, Your Honor. That allows us to
23 turn to Page 286. In connection with Item -- on Page 286, Your
24 Honor, the Item Number 33, as indicated on Exhibit B, certain
25 of those claims have been resolved. We respectfully request

1 that the remaining ones identified on Exhibit B be continued
2 until the 12/17th omni.

3 THE COURT: They'll be continued.

4 MS. BERAN: Thank you, Your Honor. Turning then to
5 Page 297, Item Number 34, we'd respectfully request that the
6 claims identified on Exhibit B be continued until the 12/17th
7 omni.

8 THE COURT: They'll be continued.

9 MS. BERAN: Thank you, Your Honor. Turning to Page
10 305 -- I apologize, Your Honor. I want to identify one on
11 Exhibit B as it relates to that omni.

12 THE COURT: This is the thirtieth omni?

13 MS. BERAN: Yes, Your Honor. On Item Number 35, the
14 liquidating trust's thirtieth omnibus objection, as indicated
15 on Exhibit B, certain of those claims have been resolved. We'd
16 respectfully request that the remaining ones be continued until
17 12/17.

18 I would note, Your Honor, in connection with the item
19 that was resolved -- I'm looking for the specific one, Your
20 Honor, I apologize. I just wanted to note something on the
21 record. Item Number 15047, the claim of Andrea (sic) Soltis,
22 as indicated, it says, "Per agreement of counsel for the
23 claimant, the objection may be sustained."

24 THE COURT: I see it.

25 MS. BERAN: I thought it important to note who the

1 counsel for the claimant was, and the trust did receive an
2 e-mail from him and that's Mr. Bill Gray with the local firm of
3 Sands Anderson.

4 THE COURT: All right.

5 MS. BERAN: Your Honor, now that Item Number 35 has
6 been resolved, that allows us to turn to Page 312.

7 THE COURT: All right.

8 MS. BERAN: In connection with Item Number 36, Item
9 36, 37, 38 and 39, we'd respectfully request that all of those
10 items, as it relates to the claims identified on Exhibit B, be
11 continued until the 12/17th omni.

12 THE COURT: They'll be continued.

13 MS. BERAN: Thank you. Turning then to Page 345.
14 Your Honor, as indicated on Exhibit B, for Items 40, 41, 42 and
15 43, certain of those claims have been resolved. In addition,
16 we'd respectfully request that the remaining claims, as
17 indicated on Exhibit B, be continued until the 12/17 omni.

18 THE COURT: They'll be continued.

19 MS. BERAN: Thank you, Your Honor. Turning then to
20 Page 381, for Items Number 44 and 45, we'd respectfully request
21 that the claims as identified on Exhibit B be continued until
22 the 12/17th omni.

23 THE COURT: That'll be continued.

24 MS. BERAN: Thank you, Your Honor. Turning then to
25 Page 393, Item Number 46, this is the liquidating trust's

1 forty-eighth omnibus objection. I'm suspecting that Your
2 Honor's summary there has indicated that my status is rather
3 confusing. If you look at the status in connection with the
4 relief being sought, it says, "The trust has resolved the
5 objection as it relates to the one remaining claim as more
6 particularly described on Exhibit B." Unfortunately, I did not
7 delete out the remaining part of that status saying we're
8 continuing. I am happy to report, as indicated on Exhibit B,
9 that that one remaining claim has been resolved and we will be
10 closing out this omni.

11 THE COURT: We don't need to continue it.

12 MS. BERAN: Correct, Your Honor.

13 THE COURT: Excellent. All right.

14 MS. BERAN: That then allows us to continue to Page
15 400. In connection with Item Number 47, we'd respectfully
16 request that the claims, as identified on Exhibit B, be
17 continued until the 12/17 omni.

18 THE COURT: They'll be continued.

19 MS. BERAN: Thank you, Your Honor. Turning then to
20 Page 406, for Items Number 48 and 49, as Your Honor will see on
21 Exhibit B, several of those claims have been resolved pursuant
22 to procedures previously approved by this Court. For all
23 remaining items identified on Exhibit B, we'd respectfully
24 request they be continued until the 12/17.

25 THE COURT: The remaining items will be continued.

1 MS. BERAN: Thank you, Your Honor. Turning to Page
2 419, as it relates to Item Number 50, we'd respectfully request
3 that the claims identified on Exhibit B be continued until the
4 12/17 omni.

5 THE COURT: It'll be continued.

6 MS. BERAN: Thank you. Turning to Page 425, Item
7 Number 51, as indicated on Exhibit B, certain of those claims
8 have been resolved. For all remaining items identified on
9 Exhibit B, we respectfully request that they be continued until
10 12/17.

11 THE COURT: They'll be continued.

12 MS. BERAN: Thank you, Your Honor. Turning then to
13 Page 430, for Items Number 52, 53 and 54, we'd respectfully
14 request that they be continued as identified on Exhibit B until
15 the 12/17 omni.

16 THE COURT: The claims remaining on Exhibit B will be
17 continued.

18 MS. BERAN: Thank you, Your Honor. Excuse me, Your
19 Honor. Turning then to Item Number 55 on Page 447, as
20 identified on Exhibit B, certain of those claims have been
21 resolved. As it relates to the remaining claims on Exhibit B,
22 we'd respectfully request that they be continued until the
23 12/17 omni.

24 THE COURT: It'll be continued, as well.

25 MS. BERAN: Thank you, Your Honor. Now, that

1 actually concludes the specific items on today's agenda. There
2 are two procedural items that we would like to raise with Your
3 Honor.

4 Specifically, first and foremost, as it relates to
5 the continuation of submitting orders in connection with these
6 various claim objections, Ms. Tavenner and I were both in
7 attendance at the Richmond Bankruptcy Bar's meeting a few weeks
8 back where Judge St. John indicated that, given the budgetary
9 cuts, as well as budgetary constraints, that the Court was open
10 for suggestions on what may help from an administrative
11 process.

12 We also understand from word on the street that in
13 certain of the larger cases, at least one I should say, that
14 orders are not being tendered where it's merely a continuation.
15 To the extent Your Honor would like for us to cease tendering
16 orders where we are merely continuing and there is no
17 substantive relief being ordered in any of those proposed
18 orders, the trust is happy to so cut that process out and that
19 will cut out a substantial number of orders every couple months
20 that get processed through the clerk's office. I would also
21 just note, as Your Honor is well-aware but given the length of
22 this, not sure that there would be much of any prejudice to any
23 party by doing that.

24 In connection with that, Your Honor, what we do in
25 maintaining this agenda is, every time there's a docket entry

1 that your scheduling clerk makes as it relates to today's
2 hearing, we have a paralegal apply that docket entry to the
3 requisite claim -- omnibus objection claim. So you will see
4 what has happened in the past, we put the docket entry from the
5 Court's perspective and then once the order's entered, we put
6 that in there, as well, which continues it so that from an
7 internal perspective we can monitor and see when it got
8 continued and how it got continued and how things came off of
9 Exhibit B from one omnibus hearing to the next omnibus hearing.
10 I think other parties in interest could do the exact same
11 thing, could see from our agenda how it was continued and not
12 necessarily need to receive an order saying it was continued.

13 We tender that idea out to Your Honor. It would save
14 the estate some expense but we're more focused and cognizant of
15 some of the instructions we have heard from the Court.

16 THE COURT: No, it makes good sense to me. I don't
17 know why we would actually need to have orders continuing
18 matters. Many times we just continue them with docket entries
19 in other cases and such. And so we could employ the same
20 procedure here. Obviously, if we're going to be removing
21 something, either because it's been resolved or whatever, we
22 would need some sort of a record as far as that's concerned.

23 MS. BERAN: Your Honor, that is what we're prepared
24 to do. To the extent it's just merely continuance on all those
25 ones that I said are continuance, we would in the past, in fair

1 candor to Your Honor, we have tendered orders.

2 THE COURT: I know you have. I've seen them.

3 MS. BERAN: But, in this instance, if it's just the
4 substantive relief, we will continue.

5 THE COURT: I enter them. Yes. So, yes. I think
6 it's an excellent idea and I'm receptive, and so let's proceed
7 along those lines going forward.

8 MS. BERAN: Thank you, Your Honor. Your Honor, I
9 also actually misspoke when I said there were two procedural
10 items. There are three procedural items, two of which I will
11 address --

12 THE COURT: The old bait and switch.

13 MS. BERAN: -- two of which I will address, one which
14 Ms. Tavenner will address. The other one is a minor issue. It
15 deals with the order as it relates to the forty-seventh omnibus
16 objection. When we were last in court, we indicated that we
17 would be tendering an order that resolved certain claims. We
18 inadvertently did not tender that order to the Court.

19 This time, we are doing nothing but continuing
20 everything from what was represented the last time. So we will
21 be tendering an order as it relates to that 47 --

22 THE COURT: Relates to 47.

23 MS. BERAN: -- to correct the inadvertent not
24 tendering of that one.

25 THE COURT: Okay, very good. And then, with regard

1 to the ones where you have resolved matters, you'll be
2 submitting orders on those?

3 MS. BERAN: Your Honor, actually, more than likely
4 not unless Your Honor is so inclined, because for the most part
5 when we resolve these claim objections, they are done pursuant
6 to a settlement agreement between the parties.

7 THE COURT: And the administrative order provides it.

8 MS. BERAN: And I can also tell you that based on the
9 court's procedures that we've got established, I can tell you
10 that the claims agent is fine with modifying the claim registry
11 based on the settlement agreements and is not requiring an
12 order. So I would respectfully submit it's really just when
13 it's something substantive being ordered by the Court, as
14 opposed to just by agreement of party.

15 THE COURT: Okay, well, what about, for example, the
16 one that you mentioned to me with Mr. Gray, where you got an
17 agreement that that was going to now be disallowed?

18 MS. BERAN: That we would be --

19 THE COURT: How would we do -- how are we doing
20 something like that?

21 MS. BERAN: That, we would submit an order because in
22 essence it's sustaining our objection.

23 THE COURT: Okay, so an order will be submitted on
24 that particular one.

25 MS. BERAN: Yes, Your Honor.

1 THE COURT: Okay. And that was what, the 18th or
2 something? You don't have to go back through, we've got a
3 record --

4 MS. BERAN: That one is the thirtieth omnibus
5 objection.

6 THE COURT: Thirtieth, okay. Okay, so I'll be
7 looking for orders then just on the thirtieth omnibus objection
8 and the forty-seventh omnibus objection.

9 MS. BERAN: As well as the eighteenth omnibus
10 objection because there is no settlement agreement between the
11 parties because it's a taxing entity.

12 THE COURT: That's right, okay. I have that notice
13 --

14 MS. BERAN: And you know and I apologize, Your Honor.
15 I'm trying to see if there were any other -- in connection -- I
16 believe there also would be one in connection with the fifty-
17 ninth omnibus objection.

18 THE COURT: Okay.

19 MS. BERAN: And let me see which -- because in that
20 instance -- Your Honor's going to laugh -- I'm going to do it
21 to -- Ms. Ann Pietrantonio. I don't think I butchered it too
22 much there. She is the trust's representative primarily
23 assigned to handling the HR claims and in many instances the HR
24 claimants do not engage counsel and then there's a lot of
25 exchange of information between the trust representative and

1 the former employee themselves. And in connection with the
2 Omni 59, she has negotiated certain resolutions and/or where
3 they now understand what the trust was requesting and/or
4 seeking and, therefore, there will more than likely be one in
5 connection with the fifty-ninth omnibus objection, as well.

6 THE COURT: Okay, and that's Docket Number 51, just
7 so I've got that on the record. It is?

8 MS. BERAN: Okay, yes, Your Honor. I couldn't --

9 THE COURT: Okay.

10 MS. BERAN: Thank you.

11 THE COURT: All right. Very good. All right. And
12 that's just fine. And if you go back to the office and find
13 out there's another order that needs to be tendered for
14 whatever reason, just let us know and we can certainly deal
15 with that. I don't mean to --

16 MS. BERAN: Certainly, Your Honor.

17 THE COURT: Okay.

18 MS. BERAN: And in future I will so note when we will
19 be tendering an order. That way it's on the record.

20 THE COURT: That sounds good.

21 MS. BERAN: Thank you, Your Honor. I now turn the
22 podium over to Ms. Tavenner.

23 THE COURT: All right, thank you.

24 MS. TAVENNER: Good afternoon, Your Honor.

25 THE COURT: Good afternoon.

1 MS. TAVENNER: For the record, Lynn Tavenner
2 appearing on behalf of the trust.

3 The one remaining procedural matter relates to a
4 pending adversary which is the trust adversary against
5 PlumChoice Inc., Adversary 10-03557.

6 When we were last here, Your Honor, I advised you
7 that this was a matter that the mediation had been completed.
8 No report had been filed but we would be moving forward to
9 notice up a pretrial conference, as well as some substantive
10 hearings -- hearings on some substantive motions.

11 I did not do that, Your Honor. The reason is that
12 I'm happy to report that there has been a settlement of the
13 matter, subject to appropriate board approval and
14 documentation. So I didn't just thumb my nose at the process.
15 There was a reason that I didn't. We do now have a settlement
16 in place, and at the appropriate time we'll be submitting the
17 paperwork to have the matter dismissed. But we do need to go
18 through a few more steps before we get to that process. But I
19 didn't want Your Honor to be looking for additional pleadings
20 or notices of hearing and preparing for something that's not
21 going to happen.

22 THE COURT: All right, thank you. I do appreciate
23 that. All right. And, obviously, the Court applauds the
24 settlement. I think that the best way to resolve these kinds
25 of things is obviously through the agreement of the parties

1 themselves, where you can make everybody equally unhappy.

2 (Laughter)

3 MS. TAVENNER: Yes, Your Honor.

4 THE COURT: All right, very good.

5 MS. TAVENNER: Thank you.

6 THE COURT: Anything else then, Ms. Tavenner?

7 MS. TAVENNER: Not for the trust today, Your Honor.

8 THE COURT: All right. Thank you very much and I
9 appreciate the good work that you all continue to do on this
10 case.

11 MS. TAVENNER: Thank you.

12 THE COURT: We'll be adjourned.

13 COURTROOM DEPUTY: All rise. Court is now adjourned.

14 * * * * *

15 C E R T I F I C A T I O N

16 I, STEPHANIE SCHMITTER, court approved transcriber,
17 certify that the foregoing is a correct transcript from the
18 official electronic sound recording of the proceedings in the
19 above-entitled matter, and to the best of my ability.

20

21 /s/ Stephanie Schmitter

22 STEPHANIE SCHMITTER

23 J&J COURT TRANSCRIBERS, INC.

DATE: November 8, 2013

24

25